

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

MICHAEL HICKS,	:	
	:	
Petitioner,	:	Civ. No. 21-10831 (RMB)
	:	
v.	:	
	:	
LAMINE N' DIAYE,	:	MEMORANDUM AND ORDER
	:	
Respondent.	:	
	:	

Petitioner is a federal prisoner proceeding *pro se* with a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241. On May 14, 2021, this Court administratively terminated this matter as Plaintiff had not paid the filing fee and his application to proceed *in forma pauperis* was incomplete. (See Dkt. No. 2.) Subsequently, Petitioner paid the filing fee such that the Clerk shall be ordered to reopen this case.

Petitioner has also submitted another application to proceed *in forma pauperis*. (See Dkt. No. 3.) However, Petitioner's application to proceed *in forma pauperis* will be denied without prejudice. Local Civil Rule 81.2(b) provides that:

Whenever a Federal . . . prisoner submits a . . . petition for writ of *habeas corpus* . . . and seeks *in forma pauperis* status, the prisoner shall also submit an affidavit setting forth information which establishes that the prisoner is unable to pay the fees and costs of the proceedings and shall further submit a certification signed by an authorized officer of the institution

certifying (1) the amount presently on deposit in the prisoner's prison account and, (2) the greatest amount on deposit in the prisoner's prison account during the six-month period prior to the date of the certification.

L. Civ. R. 81(b). Petitioner has not had the amount presently on deposit in his prisoner account nor the greatest amount on deposit in his prisoner account during the prior six-month period *certified* by the appropriate prison official. Therefore, it is incomplete. Nevertheless, given Petitioner has paid the filing fee, this Court shall proceed on that basis.

This Court has screened the habeas petition for dismissal under Habeas Rules 1 (scope of the rules) and 4 (preliminary review) and determined that dismissal without a response to the habeas petition is not warranted.

Therefore, IT IS this **11th day of June 2021,**

ORDERED the Clerk shall reopen this case; and it is further

ORDERED that Petitioner's application to proceed *in forma pauperis* (Dkt. No. 3) is denied without prejudice; and it is further

ORDERED that the Clerk shall serve a copy of the habeas petition (Dkt. No. 1) and this order, upon Respondent, the warden of FCI-Fort Dix, by regular mail with all costs of service advanced by the United States; and it is further

ORDERED that the Clerk shall forward a copy of the petition

(Dkt. No. 1) and this order to the Chief, Civil Division, United States Attorney's Office, at the following email address:

USANJ-HabeasCases@usdoj.gov; and it is further

ORDERED that within thirty (30) days of the date of the entry of this order, Respondent shall file and serve a response to the habeas petition which responds to the allegations and grounds in the habeas petition and which includes all affirmative defenses Respondent seeks to invoke; and it is further

ORDERED that Respondent shall file and serve with the response certified copies of all documents necessary to resolve Petitioner's claims and affirmative defenses; and it is further

ORDERED that within thirty (30) days of receipt of the response, Petitioner may file a reply; and it is further

ORDERED that within seven (7) days of Petitioner's release, be it parole or otherwise, Respondent shall electronically file a written notice of the same with the Clerk; and it is further

ORDERED that the Clerk shall serve a copy of this order on Petitioner by regular U.S. mail as well as a copy of the blank form of a prisoner applying for *in forma pauperis* status in a habeas corpus case.

s/Renée Marie Bumb
RENÉE MARIE BUMB
United States District Judge